

AMENDED IN SENATE AUGUST 29, 2008

AMENDED IN SENATE MAY 8, 2008

AMENDED IN SENATE JULY 25, 2007

Senate Constitutional Amendment

No. 13

Introduced by Senator ~~Torlakson~~ Perata

May 31, 2007

Senate Constitutional Amendment No. 13—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 37 to Article XIII thereof, relating to ~~taxation~~ of the State, by amending Section 12 of Article IV thereof, and by amending Section 20 of, and adding Section 21 to, Article XVI thereof, relating to state finance.

LEGISLATIVE COUNSEL'S DIGEST

SCA 13, as amended, ~~Torlakson~~ Perata. ~~Taxation—cigarettes—State finance.~~

Existing provisions of the California Constitution require the Governor to submit to the Legislature, within the first 10 days of each calendar year, a proposed budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. In addition, the Constitution prohibits the Legislature from passing, and the Governor from signing, a Budget Bill that would appropriate from the General Fund a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the Budget Bill's passage, and the amount of any General Fund moneys transferred to a reserve account, exceeds estimated General Fund revenues for that fiscal year. The estimate of General Fund revenues is required to be set forth in the Budget Bill.

This measure would require the Governor in his or her proposed budget to identify estimated total state resources available to meet recommended state expenditures and to further identify the amount of those resources that are anticipated to be one-time resources. The measure would prohibit passage of a Budget Bill that appropriates an amount that, when combined with prior appropriations and transfers to the reserve account, exceeds the estimate of General Fund revenues, transfers, and balances available from the prior fiscal year. The measure would require the estimate of General Fund revenues, transfers, and balances to be set forth in the Budget Bill.

Existing provisions of the California Constitution establish the Budget Stabilization Account in the General Fund and currently require the Controller, no later than September 30 of each year, to transfer from the General Fund to the account a sum equal to 3% of the estimated amount of General Fund revenues for the current fiscal year. This transfer of moneys is not required, unless otherwise directed by the Legislature by statute, in any fiscal year to the extent that the resulting balance in the account would exceed 5% of the General Fund revenues estimate set forth in the Budget Bill for that fiscal year, as enacted, or \$8,000,000,000, whichever is greater. This transfer of moneys also may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year. Of the moneys transferred to the account in each fiscal year, 50%, up to an aggregate amount of \$5,000,000,000 for all fiscal years, is deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount and continuously appropriated to the Treasurer for the purpose of retiring deficit recovery bonds. All other moneys transferred to the account in a fiscal year are not deposited in the sinking fund subaccount and may, by statute, be transferred back to the General Fund.

This measure would rename this account the Budget Stabilization Fund and would require the Controller, on September 30 of each year, to transfer from the General Fund to the fund a sum equal to 3% of the estimated amount of General Fund revenues and transfers as set forth in the enacted Budget Bill for the current fiscal year. This measure would reduce the amount required to be transferred from the General Fund to the fund from 3% to 1.5% of the estimated amount of General Fund revenues and transfers under specified circumstances and would provide that, beginning with the 2010–11 fiscal year, the transfer of moneys from the General Fund to the fund may be suspended or reduced

by executive order only for a fiscal year in which the amount transferred is prescribed to be 1.5% for a specified reason. In addition, this measure would provide that specified amounts may be transferred from the fund back to the General Fund and would provide that moneys in the fund may be loaned to the General Fund to address a General Fund cashflow deficit.

This measure would require the Director of Finance, on or before May 29 of each year, to report to the Legislature and the Governor an estimate of the amount of General Fund revenues and transfers for the current fiscal year and the impact of tax legislation adopted during the current fiscal year subsequent to the enactment of the Budget Bill. The measure would provide that if, pursuant to a formula based on those estimates, there are unanticipated revenues in the current fiscal year, those revenues may be used only for specified purposes, and in a specified order of priority.

~~Existing laws set forth in the California Constitution and in statutory provisions either impose or authorize the imposition of state or local sales and use taxes upon the gross receipts from the sale within the taxing jurisdiction of, or the storage, use, or other consumption in this jurisdiction of, tangible personal property.~~

~~The Cigarette and Tobacco Products Tax Law imposes a tax on every distributor of cigarettes and tobacco products at specified rates, including additional taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99), and the California Families and Children Act of 1998 (Proposition 10).~~

~~This measure would, commencing on or after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of this measure, impose an excise tax on the distribution of cigarettes at the rate of \$0.105 for each cigarette distributed. The revenues collected from the additional tax would be deposited in the Tobacco Excise Tax Account and would be allocated, upon appropriation by the Legislature, for certain health- and child-related purposes.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

- 1 *Resolved by the Senate, the Assembly concurring,* That the
- 2 Legislature of the State of California at its 2007–08 Regular
- 3 Session commencing on the fourth day of December 2006,
- 4 two-thirds of the membership of each house concurring, hereby

1 proposes to the people of the State of California, that the
2 Constitution of the State be amended as follows:

3 *First—That Section 12 of Article IV thereof is amended to read:*

4 SEC. 12. (a) Within the first 10 days of each calendar year,
5 the Governor shall submit to the Legislature, with an explanatory
6 message, a budget for the ensuing fiscal year containing itemized
7 statements for recommended state expenditures and estimated ~~state~~
8 ~~revenues~~ *total state resources available to meet those expenditures.*
9 If recommended expenditures exceed estimated ~~revenues~~ *resources,*
10 the Governor shall recommend the sources from which the
11 additional ~~revenues~~ *resources* should be provided. *The itemized*
12 *statement of estimated total state resources available to meet*
13 *recommended expenditures submitted pursuant to this subdivision*
14 *shall identify the amount, if any, of those resources anticipated to*
15 *be one-time resources.*

16 (b) The Governor and the Governor-elect may require a state
17 agency, officer, or employee to furnish whatever information is
18 deemed necessary to prepare the budget.

19 (c) (1) The budget shall be accompanied by a budget bill
20 itemizing recommended expenditures.

21 (2) The budget bill shall be introduced immediately in each
22 house by the persons chairing the committees that consider the
23 budget.

24 (3) The Legislature shall pass the budget bill by midnight on
25 June 15 of each year.

26 (4) Until the budget bill has been enacted, the Legislature shall
27 not send to the Governor for consideration any bill appropriating
28 funds for expenditure during the fiscal year for which the budget
29 bill is to be enacted, except emergency bills recommended by the
30 Governor or appropriations for the salaries and expenses of the
31 Legislature.

32 (d) No bill except the budget bill may contain more than one
33 item of appropriation, and that for one certain, expressed purpose.
34 Appropriations from the General Fund of the State, except
35 appropriations for the public schools, are void unless passed in
36 each house by rollcall vote entered in the journal, two-thirds of
37 the membership concurring.

38 (e) The Legislature may control the submission, approval, and
39 enforcement of budgets and the filing of claims for all state
40 agencies.

(f) For the 2004–05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill’s passage, and the amount of any General Fund moneys transferred to the Budget Stabilization ~~Account~~ *Fund* for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues, *transfers*, and *balances available from the prior fiscal year* for that fiscal year estimated as of the date of the budget bill’s passage. That estimate of General Fund revenues, *transfers*, and *balances* shall be set forth in the budget bill passed by the Legislature.

Second—That Section 20 of Article XVI thereof is amended to read:

SEC. 20. (a) The Budget Stabilization ~~Account~~ *Fund* is hereby created ~~in the General Fund~~.

(b) In each fiscal year as specified in paragraphs (1) to ~~(3)~~ (4), inclusive, the Controller shall transfer from the General Fund to the Budget Stabilization ~~Account~~ *Fund* the following amounts:

(1) No later than September 30, 2006, a sum equal to 1 percent of the estimated amount of General Fund revenues for the 2006–07 fiscal year.

(2) No later than September 30, 2007, a sum equal to 2 percent of the estimated amount of General Fund revenues for the 2007–08 fiscal year.

~~(3) No later than~~ *Except as set forth in paragraph (4), on September 30, 2008, and on September 30 annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues and transfers as set forth in the enacted budget bill for the current fiscal year.*

(4) On September 30, 2009, and on September 30 annually thereafter, a sum equal to 1.5 percent of the estimated amount of General Fund revenues and transfers as set forth in the enacted budget bill for the current fiscal year, if either of the following circumstances exists:

(A) The maximum amount that may be transferred pursuant to subparagraph (C) of paragraph (2) of subdivision (f) is greater than zero.

1 (B) *The transfer of moneys pursuant to paragraph (3) would*
2 *cause the balance in the Budget Stabilization Fund to exceed 12.5*
3 *percent of the estimate of General Fund revenues and transfers*
4 *as set forth in the enacted budget bill for that fiscal year.*

5 ~~(e) The transfer of moneys shall not be required by subdivision~~
6 ~~(b) in any fiscal year to the extent that the resulting balance in the~~
7 ~~account would exceed 5 percent of the General Fund revenues~~
8 ~~estimate set forth in the budget bill for that fiscal year, as enacted;~~
9 ~~or eight billion dollars (\$8,000,000,000), whichever is greater. The~~
10 ~~Legislature may, by statute, direct the Controller, for one or more~~
11 ~~fiscal years, to transfer into the account amounts in excess of the~~
12 ~~levels prescribed by this subdivision.~~

13 ~~(d)~~

14 (c) Subject to any restriction imposed by this section, funds
15 transferred to the Budget Stabilization ~~Account~~ *Fund* shall be
16 deemed to be General Fund revenues for all purposes of this
17 Constitution.

18 ~~(e)~~

19 (d) The transfer of moneys from the General Fund to the Budget
20 Stabilization ~~Account~~ *Fund* may be suspended or reduced for a
21 fiscal year as specified by an executive order issued by the
22 Governor no later than ~~June 1 of the preceding fiscal year~~ *the date*
23 ~~of the transfer as set forth in subdivision (b).~~ *For a fiscal year*
24 ~~commencing on or after July 1, 2010, this subdivision shall be~~
25 ~~operative only if the transfer of moneys from the General Fund to~~
26 ~~the Budget Stabilization Fund is made pursuant to subparagraph~~
27 ~~(A) of paragraph (4) of subdivision (b).~~

28 (e) *In addition to any transfer authorized by this section, funds*
29 ~~in the Budget Stabilization Fund may be loaned to the General~~
30 ~~Fund to address a General Fund cashflow deficit.~~

31 (f) (1) Of the moneys transferred to the ~~account~~ *Budget*
32 ~~Stabilization Fund~~ *Stabilization Fund* in each fiscal year, 50 percent, up to the
33 aggregate amount of five billion dollars (\$5,000,000,000) for all
34 fiscal years, shall be deposited in the Deficit Recovery Bond
35 Retirement Sinking Fund Subaccount, which is hereby created in
36 the ~~account~~ *fund* for the purpose of retiring deficit recovery bonds
37 authorized and issued as described in Section 1.3, in addition to
38 any other payments provided for by law for the purpose of retiring
39 those bonds. The moneys in the sinking fund subaccount are
40 continuously appropriated to the Treasurer to be expended for that

1 purpose in the amounts, at the times, and in the manner deemed
2 appropriate by the Treasurer. Any funds remaining in the sinking
3 fund subaccount after all of the deficit recovery bonds are retired
4 shall be transferred to the ~~account~~ fund, and may be transferred to
5 the General Fund pursuant to paragraph (2).

6 (2) All other funds transferred to the ~~account~~ Budget
7 Stabilization Fund in a fiscal year shall not be deposited in the
8 sinking fund subaccount and may, ~~by statute~~, be transferred to the
9 General Fund: as follows:

10 (A) Any funds in the fund in excess of 12.5 percent of the
11 estimate of General Fund revenues and transfers as set forth in
12 the enacted budget bill for that fiscal year may be transferred to
13 the General Fund by statute. Moneys transferred to the General
14 Fund pursuant to this subparagraph may be appropriated only
15 for one or more of the one-time purposes set forth in paragraphs
16 (3) and (4) of subdivision (c) of Section 21.

17 (B) Any funds necessary for the purpose of responding to an
18 emergency declared by the Governor may be transferred by statute.
19 For purposes of this subparagraph, “emergency” has the same
20 meaning as set forth in paragraph (2) of subdivision (c) of Section
21 3 of Article XIII B.

22 (C) Apart from transfers made pursuant to subparagraphs (A)
23 and (B), funds may be transferred to the General Fund by statute
24 as specified in this subparagraph. The total amount that may be
25 transferred to the General Fund pursuant to this subparagraph
26 for any fiscal year shall not exceed the amount derived by
27 subtracting the General Fund revenues and transfers for that fiscal
28 year from the total General Fund expenditures for the immediately
29 preceding fiscal year adjusted for the change in population and
30 the change in the cost of living for the State, as those terms are
31 defined in Section 8 of Article XIII B, between the immediately
32 preceding fiscal year and the fiscal year in which the transfer is
33 made. For purposes of this subparagraph, “General Fund revenues
34 and transfers for that fiscal year” does not include revenues
35 transferred from the General Fund to the Budget Stabilization
36 Fund pursuant to subdivision (b) for that fiscal year, and “total
37 General Fund expenditures for the immediately preceding fiscal
38 year” does not include the expenditure of unanticipated revenues
39 pursuant to Section 21.

1 (g) *The Legislature may, by statute, direct the Controller, for*
2 *one or more fiscal years, to transfer into the Budget Stabilization*
3 *Fund funds in excess of the amounts prescribed by this section.*

4 *Third—That Section 21 is added to Article XVI thereof, to read:*

5 *SEC. 21. (a) On or before May 29 of each year, the Director*
6 *of Finance shall do both of the following:*

7 *(1) Estimate General Fund revenues and transfers for the*
8 *current fiscal year and report that estimate to the Legislature and*
9 *the Governor.*

10 *(2) Estimate the current fiscal year General Fund revenue*
11 *impact of tax legislation enacted subsequent to the enactment of*
12 *the budget bill for the current fiscal year and not included in the*
13 *estimate required by subdivision (f) of Section 12 of Article IV,*
14 *and report that estimate to the Legislature and the Governor.*

15 *(b) For purposes of this section, “unanticipated revenues” for*
16 *a fiscal year shall be calculated as follows:*

17 *(1) The Director of Finance shall increase or decrease the*
18 *estimate of General Fund revenues and transfers set forth in the*
19 *budget bill for the current fiscal year pursuant to subdivision (f)*
20 *of Section 12 of Article IV to reflect the current fiscal year General*
21 *Fund revenue impact of tax legislation reported pursuant to*
22 *paragraph (2) of subdivision (a).*

23 *(2) “Unanticipated revenues” shall be that amount of General*
24 *Fund revenues equal to the amount, if any, by which the estimate*
25 *of General Fund revenues and transfers reported pursuant to*
26 *paragraph (1) of subdivision (a) exceeds 105 percent of the amount*
27 *derived pursuant to paragraph (1) of this subdivision.*

28 *(c) After the date of the reports described in subdivision (a),*
29 *unanticipated revenues may be used only as follows:*

30 *(1) Unanticipated revenues shall be appropriated to satisfy all*
31 *General Fund obligations under Section 8 for the current fiscal*
32 *year, including any maintenance factor allocation for the current*
33 *fiscal year required pursuant to subdivision (e) of Section 8, that*
34 *have not been met by the General Fund appropriations made to*
35 *date, to the extent this shortfall exceeds an amount equal to 5*
36 *percent of the estimate of General Fund revenues for the current*
37 *fiscal year set forth in the enacted budget bill pursuant to*
38 *subdivision (f) of Section 12 of Article IV.*

39 *(2) Any unanticipated revenues remaining after any*
40 *appropriations described in paragraph (1) shall be transferred to*

1 *the Budget Stabilization Fund, up to the amount needed to increase*
2 *the balance in the fund to an amount equal to 12.5 percent of the*
3 *estimate of General Fund revenues and transfers as set forth in*
4 *the enacted budget bill for that fiscal year.*

5 *(3) Any unanticipated revenues remaining after any*
6 *appropriations and transfers described in paragraphs (1) and (2)*
7 *shall be appropriated to retire outstanding budgetary obligations.*
8 *For purposes of this paragraph, “budgetary obligations” means*
9 *any of the following:*

10 *(A) Unfunded prior fiscal year General Fund obligations*
11 *pursuant to Section 8.*

12 *(B) Any repayment obligations created by the suspension of*
13 *subparagraph (A) of paragraph (1) of subdivision (a) of Section*
14 *25.5 of Article XIII.*

15 *(C) Any repayment obligations created by the suspension of*
16 *subdivision (a) of Section 1 of Article XIX B.*

17 *(D) Bonded indebtedness authorized pursuant to Section 1.3.*

18 *(E) Unfunded liabilities for vested nonpension benefits for state*
19 *annuitants.*

20 *(4) Any unanticipated revenues remaining after any*
21 *appropriations and transfers described in paragraphs (1), (2), and*
22 *(3) are made to retire all outstanding budgetary obligations shall*
23 *be used as follows:*

24 *(A) Transfer to the Budget Stabilization Fund.*

25 *(B) Appropriation for one-time infrastructure or other capital*
26 *outlay purposes.*

27 *(C) Appropriation to retire, redeem, or defease outstanding*
28 *general obligation or other bonded indebtedness of the State.*

29 *(D) Return to taxpayers within the current or immediately*
30 *following fiscal year by a one-time revision of tax rates or fee*
31 *schedules.*

32 ~~That Section 37 is added to Article XIII thereof, to read:~~

33 ~~SEC. 37. (a) In addition to any other tax imposed under the~~
34 ~~Cigarette and Tobacco Products Tax Law (Part 13 (commencing~~
35 ~~with Section 30001) of Division 2 of the Revenue and Taxation~~
36 ~~Code), or its successor statute, an excise tax is hereby imposed~~
37 ~~upon every distributor of cigarettes at the rate of one hundred five~~
38 ~~mills (\$0.105) for each cigarette distributed on and after the first~~
39 ~~day of the first calendar quarter commencing more than 90 days~~
40 ~~after the effective date of this section.~~

~~(b) (1) Every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock tax for each cigarette in his or her possession or under his or her control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section at the rate of one hundred five mills (\$0.105) for each cigarette.~~

~~(2) Every dealer and wholesaler shall file a return with the State Board of Equalization (hereafter state board) on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this section on a form prescribed by the state board, showing the number of cigarettes in his or her possession or under his or her control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section. The amount of tax shall be computed and shown on the return.~~

~~(c) (1) Every licensed cigarette distributor, for the privilege of distributing cigarettes and for holding or storing cigarettes for sale, use, or consumption, shall pay a cigarette indicia adjustment tax for each California cigarette tax stamp that is affixed to any package of cigarettes and for each unaffixed California cigarette tax stamp in his or her possession or under his or her control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this section at the following rates:~~

~~(A) Two dollars and six hundred twenty-five mills (\$2.625) for each stamp bearing the designation "25."~~

~~(B) Two dollars and ten cents (\$2.10) for each stamp bearing the designation "20."~~

~~(C) One dollar and five cents (\$1.05) for each stamp bearing the designation "10."~~

~~(2) Every licensed cigarette distributor shall file a return with the state board on or before the first day of the first calendar quarter commencing 180 days after the effective date of this section on a form prescribed by the state board, showing the number of stamps described in subparagraphs (A), (B), and (C), of paragraph (1). The amount of tax shall be computed and shown on the return.~~

~~(d) The taxes imposed under this section shall be administered and collected in accordance with the Cigarette and Tobacco Products Tax Law, or its successor statute.~~

1 ~~(e) All revenues, less refunds, derived from a tax imposed~~
2 ~~pursuant to this section shall be transferred to the Tobacco Excise~~
3 ~~Tax Account, which is to be created in the General Fund and shall,~~
4 ~~upon appropriation by the Legislature, be allocated for each fiscal~~
5 ~~year exclusively~~

6 ~~to fund the following:~~

7 ~~(1) Children's health care.~~

8 ~~(2) Tobacco cessation services.~~

9 ~~(3) Lung cancer research, especially research regarding early~~
10 ~~detection, prevention, and treatment methods.~~

11 ~~(4) General health care, and particularly to provide~~
12 ~~supplementary funding for the Medi-Cal program (Chapter 7~~
13 ~~(commencing with Section 14000) of Part 3 of Division 9 of the~~
14 ~~Welfare and Institutions Code), or its successor, that will ensure~~
15 ~~that the amount of funding for each fiscal year for that program,~~
16 ~~or its successor, is no less than the amount of funding for that~~
17 ~~program for the 2007-08 fiscal year, prior to any reduction in~~
18 ~~funding for that program made during that fiscal year.~~

19 ~~(5) Children's services, including foster care services, child care~~
20 ~~services, and child welfare services.~~

21 ~~(6) Programs relating to autism spectrum disorders, including~~
22 ~~funding to aid the providers of services for children and adults~~
23 ~~with autism disorders.~~

24 ~~(7) Universal dental care.~~

25 ~~(8) Elementary and secondary school programs to provide school~~
26 ~~meals, physical education classes, and health classes.~~

27 ~~(f) Revenues derived from the taxes imposed pursuant to this~~
28 ~~section are not proceeds of taxes within the meaning of Section 9~~
29 ~~of Article XIII B or State General Fund proceeds of taxes within~~
30 ~~the meaning of Section 8 of Article XVI.~~